## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON DIVISION

JOHN ANTHONY CASTRO	
12 Park Place, Mansfield, TX 76063	)
Plaintiff,	)
v.	) Case No. 2:23-cv-00598
	) The Honorable Irene C. Burger
SECRETARY OF STATE ANDREW	)
WARNER and DONALD JOHN TRUMP,	)
	)
Defendants.	)

## NOTICE OF WITHDRAWAL OF EMERGENCY APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND EXPEDITED PRELIMINARY INJUNCTION HEARING CONSOLIDATED WITH A BENCH TRIAL ON THE MERITS

Plaintiff John Anthony Castro, *pro se*, files this Notice of Withdrawal of his Emergency Application for a Temporary Restraining Order and Expedited Preliminary Injunction Hearing Consolidated with a Preliminary Bench Trial on the Merits.

Plaintiff objects to the Court's decision to involuntarily convert the motions to dismiss to motions for summary judgment as having the effect of (1) circumventing the presumption of truthfulness in Plaintiff's complaint, (2) disallowing the factual development of the case with regard to standing, (3) denying Plaintiff access to the discovery phase that could aid in the development of the case, and (4) having the practical effect of denying Plaintiff procedural due process. Plaintiff understands that this Court was likely acting upon the requested relief for an expedited proceeding, but this is no longer the case.

Plaintiff intends to amend his complaint on or after January 27, 2024 (the day after the

close of the candidate filing period), when both Plaintiff and Defendant Donald John Trump will

be on the ballot in West Virginia in order to comply with the "Time of Filing" Rule.

In withdrawing this motion, Plaintiff intends for the case to revert back to the dismissal

phase and for the filings to no longer be considered motions for summary judgment.

Respectfully submitted,

Dated: December 9, 2023. By: /s/ John Anthony Castro

John Anthony Castro

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Plaintiff Pro Se

**VERIFICATION** 

Pursuant to 28 U.S.C. § 1746, I, John Anthony Castro, verify, under criminal penalty of

perjury, that the entirety of the foregoing document, including any and all accompanying

exhibits, are unequivocally true and correct.

Executed on December 9, 2023.

/s/ John Anthony Castro

John Anthony Castro

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## **CERTIFICATE OF SERVICE**

On December 9, 2023, I submitted the foregoing document with the Clerk of this Court either by mail, email, or CM/ECF. It is further certified that all other parties will be served via CM/ECF if they are registered users, and, if they are not registered users or have not yet filed a notice of appearance, they will be served by U.S. postal mail.

/s/ John Anthony Castro
John Anthony Castro